

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review by AT&T Inc.)	WC Docket No. 03-109
of Decision of Universal Service Administrator)	

COMMENTS OF VERIZON¹

The Commission should grant AT&T's appeal² and reverse erroneous Lifeline program audit conclusions by the Universal Service Administrative Company ("USAC") and its auditors regarding toll limitation service reimbursements, toll blocking service advertising, and partial month Lifeline reimbursement claims.

I. Evidence That AT&T Was Eligible For *More* Toll Limitation Service Support Than It Sought Reimbursement For Is Not Grounds To Revoke All Funding.

One component of Lifeline support is carrier reimbursement for the cost of providing toll limitation or toll blocking services to Lifeline customers. 47 C.F.R. § 54.403(c). Incremental cost support materials filed with state commissions can be used to determine these reimbursement amounts. *Id.* AT&T apparently had such supporting materials on file with its state regulators but because of a clerical error sought reimbursement for toll limitation amounts significantly *lower* (more than \$500,000 total) than what it could have requested. AT&T Petition at 6. Even though AT&T's error represents a savings to the Universal Service Fund ("USF"), because the company's toll limitation reimbursement claims did not "match" its filed cost data,

¹ The Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² Request for Review by AT&T Inc. of Decisions of Universal Service Administrator, WC Docket No. 03-109 (filed April 14, 2009) ("AT&T Appeal").

USAC seeks to recover the whole amount of what it views as erroneous toll limitation payments to AT&T. AT&T Petition, Appendices A & B.

Assuming the AT&T cost data is accurate and was properly submitted – and there is no allegation to the contrary – USAC’s response is unreasonable and contrary to Commission precedent. As a practical matter, it simply does not make sense to penalize a carrier for drawing less support from the fund than the carrier is legitimately entitled to receive.

Moreover, USAC’s position in this instance suggests a strict liability test whereby all carrier support will be revoked if there is any discrepancy between the amount claimed and underlying cost data. Such an approach may make sense if there is evidence proving bad faith and a carrier receives *more* funding than it is entitled to, but there is no allegation of either in this situation. And even in situations when a carrier is paid too much – versus the present situation where AT&T was apparently paid too little – in the absence of bad faith USAC cannot revoke funding that the carrier was legitimately entitled to receive. *See, e.g., Schools and Libraries Universal Service Support Mechanism*, Fifth Report and Order, 19 FCC Rcd 15808, ¶ 27 (2004) (“[I]n a situation in which the beneficiary made a clerical error in calculating the level of participation . . . or failed to use an approved methodology . . . the beneficiary may legitimately receive support under a recalculated discount rate. In these circumstances, the amount to recover is the difference between the incorrectly calculated amount and the amount recalculated with the appropriate discount. . . [I]n the narrow circumstance where there is evidence that an applicant has manipulated its discount rate in a deliberate attempt to defraud the government, full recovery may be appropriate.”).

II. Advertising Specific Components Of Lifeline Service Such As Toll Blocking Is Not Required.

Section 54.405(b) of the Commission's rules requires that ETCs "[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service." 47 C.F.R. § 54.405(b). USAC and its auditors fault AT&T for failing to advertise the free toll blocking service available to Lifeline customers. AT&T Appeal at 8. The rules, however, do not require carriers to advertise each and every component of their Lifeline service. While there are many benefits and discounts available to universal service low income program participants, *see, e.g.*, 47 C.F.R. 54.403, the Lifeline advertising requirement does not require ETCs to enumerate all such benefits when publicizing the availability of Lifeline service generally.

III. Carriers Are Not, And Should Not Be, Required To Pro-Rate Lifeline Reimbursement Claims.

USAC and its auditors fault AT&T for failing to pro-rate monthly Lifeline reimbursement claims. AT&T Appeal at 10. This conclusion is wrong. To seek reimbursement for providing Lifeline services, carriers submit monthly worksheets (FCC Form 497) to USAC. Carriers are not required to pro-rate their reimbursement claims for Lifeline customers that initiate or discontinue service during the course of the month. As several carriers have explained in multiple appeals of the same audit finding, the Commission previously considered and rejected mandatory pro-rata Lifeline reimbursement claims. *See Wireline Competition Bureau Announces Delayed Effective Date for Revised Form 497*, 20 FCC Rcd 973 (2004); and *Wireline Competition Bureau Announces Delayed Effective Date for Revised Form 497 Used for Low-Income Universal Service Support Until Further Notice*, 20 FCC Rcd 4395 (2005) (indefinitely suspending new Lifeline reimbursement form that would have required partial month claims).

The Commission's decision not to require carriers to track and submit partial month claims for Lifeline customers that initiate or discontinue service during a month makes sense. Such a requirement, particularly for carriers with large bases of Lifeline participants such as AT&T, would be extremely complicated and burdensome. Lifeline customer counts are dynamic. To track Lifeline counts on a granular level, carriers would likely have to pull data every day and calculate pro-rated support for each Lifeline customer. This is not practical even for carriers with a relatively small number of Lifeline customers. For large carriers with millions of Lifeline customers, such a process would be prohibitively expensive. Complex modifications to carrier billing systems (likely costing millions of dollars) would be necessary to capture required data and to adjust reimbursement claims.

Moreover, there is nothing to be gained from mandatory, pro-rata Lifeline reimbursement claims. The current process allows carriers to report Lifeline counts used for reimbursement claims on a fixed day each month. Using this methodology, some partial month Lifeline customers are included in the count while other partial month customers are excluded. In other words, Lifeline additions and drops during the course of a month off-set each other. There is no reason to believe that, over time, reporting on this basis would substantially overstate or understate a carrier's monthly count of eligible Lifeline customers. Undoubtedly, this method is more efficient and less complicated to administer, equally accurate, and easier to audit than the pro-rata approach advocated by USAC and its auditors.

In addition, the plain language used on Form 497 and the attendant Worksheet Instructions makes clear that pro-rata Lifeline reimbursement claims are not mandatory. *See* Lifeline and Link Up Worksheet, FCC Form 497 (July 2008 Edition) (requiring additional data on Line 9 of the form only if the reporting carrier pro-rates its reimbursement claims); and

Instructions for Lifeline and Link Up Worksheet, FCC 497 Instructions, at 2 (July 2008 Edition)
(requiring same).

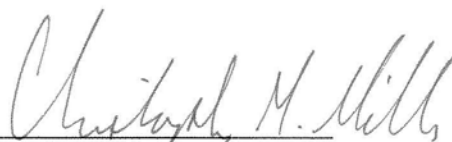
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For these reasons, the Commission should grant AT&T's appeal.

Respectfully submitted,

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